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Paper No. 7

Peter K. Trzyna
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MAR 27 2002

In re Application of
Jared Schutz and David McCarter
Application No. 09/776,956
Filed: February 5, 2001
Attorney Docket No. Proflowers -P1-01
Title: GENERATING A COURIER
SHIPPING LABEL OR THE LIKE,
INCLUDING AN ORNAMENTAL
GRAPHIC DESIGN, AT A NON-COURIER
PRINTER

OFFICE OF PETITIONS

**DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(a)**

This is in response to the petition under 37 CFR §1.47(a)¹, filed August 22, 2001.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on February 5, 2001. On March 19, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for its late filing. Also required was a substitute specification and substitute drawings. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition. Accompanying the petition was a three-month extension of time², a declaration executed by one of the two inventors, as well as a statement by

¹ A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application;
- (3) a statement of the last known address of the non-signing inventors;
- (4) proof that diligent efforts have been made to locate the non-signing inventor;
- (5) a declaration which complies with 37 CFR 1.63.

² Petitioner has requested a three-month extension of time, when a four-month extension is required. The difference has been charged to petitioner's Deposit Account, along with the petition fee, as authorized in the petition.

the petitioner, a declaration from the signing inventor, a declaration executed by William Strauss, the President and CEO of the assignee corporation, copies of the certified mail receipt and shipping information, along with the associated letter which was sent to the non-signing inventor, a copy of the employment and assignment agreement between the assignee and the non-signing inventor³.

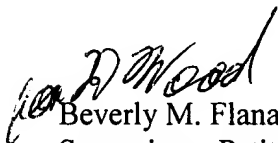
The declaration of William Strauss shows that a copy of the patent application, declaration, and assignment document was sent to the last known address of the non-signing inventor on two separate occasions. Both times the package was not claimed, and was once returned to the sender. This action can reasonably be construed as a refusal on the part of Mr. McCarter to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

³ It is noted that the petitioner has failed to submit a substitute specification as required by the Notice. Petitioner is reminded that failure to submit all required items identified in the Notice before the maximum extendable period shall result in the abandonment of this application.



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DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(a)

Dear Mr. McCarter:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to

the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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